

WITNESS NAME				Hartle, Nathan (fact)																									
DEPOSITION DA				8/1/2018																									
AFFIRMATIVE DEPOSITION DESIGNATIONS										COUNTER DESIGNATIONS * <i>Pink</i> = Completeness Designation										REPLY DESIGNATIONS * <i>Pink</i> = Completeness Designation									
Page/Lin e Begin	Page/Lin e End	Objections		Objection Notes	Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections	Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections	Replies to Objections																
15	7	16	12		n/a	20	1	22	5 Improper Completeness Designation	198	19	199	4 Compound; argumentative; assumes facts; misstates prior testimony.	The questioning thoroughly included the prior facts regarding McKesson's threshold methodology (which contained multiple components), which were confirmed by the exhibit ( <i>see</i> Dep. Exh. 56) as well as by the witness's testimony . <i>See</i> Dep. at 195:11-14, 196:9-198:13. The factual portion of the questioning correctly summarizes the facts outlined in the exhibit, and the alleged argument is merely questioning about a logical basis/reason for the methodology. The witness was given full opportunity to ansswer, did in fact answer, and indicated no difficulty or confusion regarding same. Further, any alleged issue with the questioning being compound, argumentative, assuming facts and/or misstating testimony, can be properly considered, accounted for and/or weighed in this bench trial.															
16	24	17	2	Foundation; hearsay within hearsay	Hearsay on pages 20-22.  As for foundation, the witness had the necessary knowledge and experience (as McKesson's VP of Regulatory Affairs and Compliance) sufficient to testify about same. In fact, the document itself shows the witness's role as a high-ranking McKesson employee responsible for regulatory matters. <i>See</i> Dep. Exh. at pp. 4, 9. Further, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". <i>See</i> ECF No. 1166 at 1, and 4 (row 7). Additionally, foundation is an objection to form which was not made during the deposition relative to introduction/use of the exhibit, and is thus waived. Hearsay is not applicable pursuant to FRE 801(d)(2)(A), FRE 801(d)(2)(B), FRE 801(d)(2)(C), FRE 801(d)(2)(D), and/or 803(6). Moreover, the government report information (from the Centers for Disease Control and U.S. Department of Health and Human Services) presented in this McKesson PowerPoint on pp. 20-22 is not hearsay pursuant to FRE 803(8). Thus, there is no prohibition to this information pursuant to FRE 805. Further, this document is a McKesson Regulatory Affairs training presentation. Thus, even if FRE 803(8) did not apply, the information on pp. 20-22 is still admissible because FRE 801(c)(2) is not satisfied (since it is also for McKesson's notice, knowledge, understanding and/or state of mind regarding: opioid abuse, the opioid epidemic, opioid harms, and/or geography of same, and not solely introduced for the truth of the matter).	24	14	24	19	199	6	199	6 Compound; argumentative; assumes facts; misstates prior testimony.	Same as above.															
17	20	18	25		n/a	25	24	26	9 Improper Completeness Designation	207	5	207	8 408; Hearsay; misstates the 2017 settlement which is clear on its face that McKesson's limited admission of liability did not relate to the issue in the question; assumes facts.	The Court has previously ruled on this matter, and the 2017 settlement agreement at issue has been admitted into evidence. <i>See</i> P-42554; 5/24/2021 Trial Tr. at 107:18-109:3. Hearsay is not applicable pursuant to FRE 801(d)((2)(A), FRE 801(d)(2)(B), and/or FRE 803(5). As shown by the admitted exhibit, the questioning accurately represents the applicable portions of the 2017 settlement agreement (that the conduct involving McKesson's Aurora distribution center was included, McKesson accepted responsibility for failing to report suspicious orders which should have been detected, and the agreement was for \$150 million). <i>See</i> P-42554 at p. 2 (Para. 6), p. 3 (Paras. 2 & 3) , p. 8 (Para. i). The facts are not assumed, and the witness's testimony further confirms same. <i>See</i> Dep. at 207:23-208:2. Moreover, even if any alleged minor issue with the question existed, it could be properly considered, accounted for and/or weighed by the Court in this bench trial.															
19	1	19	20		n/a	36	20	36	22 Designated conditionally as it shows that Plaintiffs' designation of simialr testimony is based on inadmissible hearsay and improper lay opinion. To the extent Plaintiffs' improper designations are struck on this ground, McKesson will withdraw.	207	10	207	17 408; Hearsay; misstates the 2017 settlement which is clear on its face that McKesson's limited admission of liability did not relate to the issue in the question; assumes facts.	Same as above.															
22	6	22	17		n/a	36	24	37	2 Designated conditionally as it shows that Plaintiffs' designation of simialr testimony is based on inadmissible hearsay and improper lay opinion. To the extent Plaintiffs' improper designations are struck on this ground, McKesson will withdraw.	207	19	207	25 408; Hearsay; misstates the 2017 settlement which is clear on its face that McKesson's limited admission of liability did not relate to the issue in the question; assumes facts.	Same as above.															
22	19	22	24		n/a	55	11	55	14	208	2	208	2 408; Hearsay; misstates the 2017 settlement which is clear on its face that McKesson's limited admission of liability did not relate to the issue in the question; assumes facts.	Same as above.															
23	16	23	21		n/a	77	6	77	8	501	15	501	24 Compound, vague, calls for a legal conclusion, calls for improper expert opinion	The questioning summarized prior facts regarding McKesson's mistakes, as confirmed by exhibits and testimony, and properly did so as a predicate for the topic at issue. <i>See e.g.</i> , P-23733 (2008 settlement), P-42554 (2017 settlement); 5/24/2021 Trial Tr. at 82:8-88:17, 107:18-115:24. <i>See also</i> , Dep. at 28:5-30:6, 51:16-54:11, 131:16-22, 207:13-208:2. The witness was provided a full opportunity to ansswer the question, did in fact answer, and indicated no difficulty or confusion regarding same. <i>See</i> Dep. at 502:1-4. Also, the objections to legal conclusion and expert are not supported. As McKesson's VP of Regulatory Affairs and Compliance, and prior to that as a Senior Director of Regulatory Affairs, Mr. Hartle always maintained responsibility for McKesson's retail national accounts for the entire country. <i>See</i> Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson", as well as to understand diversion and enhance McKesson's CSMP to address same. <i>See e.g.</i> , Dep. at 15:18-25, 16:2-12, 18:12-23, 23:10-15, 24:20-25:1, 493:24-495:3. His views on McKesson's conduct, prior problems with the CSMP, lack of compliance and the impacts of diversion are within his experience, knowledge, and responsibilities, and the testimony is not a legal conclusion but rather part of his job. The testimony is also allowed pursuant to FRE 701. Further, any alleged issue with the questioning being compound, vague or a legal conclusion/opinion, can be properly considered, accounted for and/or weighed in this bench trial. Plaintiffs submit that the understanding and/or perspetvie of Mr. Hartle (McKesson's VP of Regulatory Affairs and Compliance) is valuable and reasonable for the Court to consider.															
24	6	24	13		n/a	136	10	136	23 Answer at 136:11-13 is non-responsive to prior question	502	1	502	4 Compound, vague, calls for a legal conclusion, calls for improper expert opinion	Same as above.															
24	20	25	21		n/a	136	25	137	7 Answer at 136:25-137:2 is non-responsive to question asked	504	8	504	12 Compound; argumentative; vague	Plaintiffs disagree that the question is compound, argumentative or vague. The witness was provided a full opportunity to ansswer the question, did in fact answer, and indicated no difficulty or confusion regarding same. Further, any alleged issue with the questioning being compound, argumetive or vague, can be properly considered, accounted for and/or weighed in this bench trial.															
26	15	26	18	Vague; foundation	The witness had the necessary foundation to answer as he was McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, he always maintained responsibility for McKesson's retail national accounts for the entire country. <i>See</i> 8/1/2018 Hartle dep. ("Dep.") at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. The question was not unfairly vague as evidenced by the witness's ability to fully answer. Further, while Plaintiffs submit that the question is not unfairly vague, any such issue can be properly considered and weighed in this bench trial.	137	9	137	13 Answer at 137:12-13 is non-responsive to question asked.	504	14	504	15 Compound; argumentative; vague	Same as above.															
26	20	26	25	Vague; foundation	Same as above.	138	18	139	4																				
27	2	27	2		n/a	145	7	145	9																				

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34	5	34	7	Hearsay within hearsay - document contains numerous hearsay statements copy/pasted from other organizations. Inclusion of the statements of others in a PowerPoint is not adoption/agreement with those statements, which are outside the purview of Mr. Hartle's expertise, and inclusion of statements by a single McKesson employee is not adoption by the company; geographic scope - presentation to Discount Drug Mart which does not operate in West Virginia; calls for expert testimony; foundation			This document was authored and presented by the witness in his capacity as McKesson's Senior Director of Regulatory Affairs. See Dep. at 34:17-35:5; Dep. Exh. 42 at p. 1. Moreover, the witness repeatedly confirmed that the information in his PowerPoint was meant to be accurate and that he would not have included the information if he disagreed with it or if he thought it was inaccurate. See e.g., Dep. at 35:15-21, 38:4-17. Accordingly, this PowerPoint authored by the witness (while an agent/employee of McKesson), as well as his testimony, is not hearsay pursuant to FRE 801(d)(2)(B), FRE 801(d)(2)(C), FRE 801(d)(2)(D), FRE 803(3), FRE 803(5) and/or FRE 803(6). Further, the statements in this exhibit are made by the witness himself (see Dep. Exh. 42 at pp. 1-2, 13, 18-19, 23-41) or are directly adopted/used from specifically cited government publications/reports (see Dep. Exh. 42 at pp. 3-12, 14-17) which are exceptions to hearsay (FRE 803(8)). As such, any hearsay within hearsay relative to the exhibit and/or the witness's testimony, is cured by the aforementioned FREs and FRE 805. Additionally, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit/testimony also proves notice, knowledge, understanding, and/or state of mind regarding: applicable distribution regulations, diversion, opioid addiction, the opioid epidemic, opioid harms, etc.). The geographic scope objection is not supported. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue is consistent with same. Moreover, McKesson's notice, knowledge, understanding and/or state of mind regarding these matters (including its nationwide policies/procedures, the national regulations, DEA's interpretation and/or enforcement, diversion problems, opioid harms, etc.), apply to Cabell/Huntington. In fact, various slides provide national and/or West Virginia data/information. See e.g., Dep. Exh. 42 at pp. 3-8, 14-17. The expert testimony and foundation objections are inapplicable as the witness had the background, experience and responsibility (as McKesson's Sr. Director of Regulatory Affairs) to present and/or testify on these matters, which is what he did with this PowerPoint he authored and his testimony. In fact, the witness authored the PowerPoint with the information he keeps "current" on (see Dep. at 38:4-7), and he has authored/given similar presentations for years. See e.g., Dep. Exhs. 41 and 43. Moreover, the witness's testimony is admissible pursuant to FRE 701. Also, for the foundation objection, the witness authored and presented the PowerPoint. Further, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 4 (row 28). Additionally, foundation is an objection to form which was not made during the deposition relative to introduction/use of the exhibit, and is thus waived.	145	11	145	17						
34	11	36	19	Hearsay within hearsay; geographic scope; calls for expert testimony; foundation			Same as above.		145	19	145	20					
37	4	37	9	Foundation; calls for expert testimony; based on inadmissible hearsay, not personal knowledge (see 36:20-37:2).			Same as above.		199	11	199	15					
37	11	37	12	Foundation; calls for expert testimony			Same as above.		199	23	200	8					
37	14	38	7	Hearsay within hearsay; geographic scope; calls for expert testimony; foundation			Same as above.		204	18	205	2	Incomplete Designation; No asnwer designated to question at 204:25-205:2				
38	14	38	20	Hearsay within hearsay; geographic scope; calls for expert testimony; foundation			Same as above.		206	24	207	4	Improper Narrative that is not in response to any question by counsel				
38	24	39	2	Hearsay within hearsay - document contains numerous hearsay statements copy/pasted from other organizations. Inclusion of the statements of others in a PowerPoint is not adoption/agreement with those statements, which are outside the purview of Mr. Hartle's expertise, and inclusion of statements by a single McKesson employee is not adoption by the company; geographic scope; calls for expert testimony; foundation			This document was authored and presented by the witness in his capacity as McKesson's Senior Director of Regulatory Affairs. See Dep. at 39:9-40:6; Dep. Exh. 43 at p. 1. Moreover, the witness repeatedly acknowledged the questioning about the information in his PowerPoint. See e.g., Dep. at 40:24-41:8. Accordingly, this PowerPoint authored by the witness (while an agent/employee of McKesson) is not hearsay pursuant to FRE 801(d)(2)(B), FRE 801(d)(2)(C), FRE 801(d)(2)(D), FRE 803(3), FRE 803(5) and/or FRE 803(6). Further, almost all of the statements in this exhibit are made by the witness himself (see Dep. Exh. 43 at pp. 1 and 3-11), and the sole slide which contains any other information was adopted/used from a specifically cited government publication/report (see Dep. Exh. 43 at p. 2) which is also an exception to hearsay (FRE 803(8)), and any hearsay within hearsay is cured by the aforementioned FREs and FRE 805. Additionally, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit also proves notice, knowledge, understanding, and/or acceptance of: applicable distribution regulations, diversion, opioid addiction, the opioid epidemic, opioid harms, etc.). The geographic scope objection is not applicable. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue is consistent with same, including McKesson's national policies/procedures as well as the opioid epidemic. Moreover, McKesson's notice, knowledge, understanding and/or state of mind regarding these matters were national in scope, and apply to Cabell/Huntington. The expert testimony objection is inapplicable as the witness had the background, experience and responsibility (as McKesson's Sr. Director of Regulatory Affairs) to present and/or testify on these matters, which is what he did with this PowerPoint he authored, as well as with his testimony. In fact, the witness has authored/given similar presentations for years and was requested to do so by McKesson itself. See e.g., Dep. Exhs. 41 and 42. Moreover, with the witness's testimony is also admissible pursuant to FRE 701. Relative to the foundation objection, the witness authored and presented the PowerPoint. Further, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 11 (row 17). Additionally, foundation is an objection to form which was not made during the deposition relative to introduction/use of the exhibit, and is thus waived.	224	10	225	1						
39	9	39	17				n/a		227	1	227	4					
40	8	41	11	Hearsay within hearsay; geographic scope; calls for expert testimony; foundation			Same response as above relative to 38:24-39:2.		227	6	227	15					

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41	15	42	25	Hearsay within hearsay; geographic scope; calls for expert testimony; foundation			This McKesson PowerPoint and the witness's testimony are not hearsay pursuant to FRE 801(d)(2)(B), FRE 801(d)(2)(C), FRE 801(d)(2)(D), and/or FRE 803(6). Further, slides with other information were adopted/used from a specifically cited government publication/report (see e.g., Dep. Exh. 44 at p. 2) which is also an exception to hearsay (FRE 803(8)), and the slides and any related testimony alleged to be hearsay within hearsay are cured by the aforementioned FREs and FRE 805. Additionally, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit/testimony also proves notice, knowledge, understanding, and/or state of mind regarding: applicable distribution regulations, diversion, migration, opioid addiction, transition from Rx opioids to heroin, the opioid epidemic, opioid harms, etc.). The geographic scope objection is not applicable. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue is consistent with same. Moreover, McKesson's notice, knowledge, understanding and/or state of mind regarding these nationwide matters (including its policies/procedures, applicable regulations, DEA's interpretation and/or enforcement, diversion, transition from Rx opioids to heroin, opioid harms, etc.), apply to Cabell/Huntington. The expert testimony and foundation objections are inapplicable as the witness had the background, experience and responsibility (as McKesson's Sr. Director of Regulatory Affairs) sufficient to testify on these matters. In fact, the witness has authored/given similar presentations for years and has done so at the specific request of McKesson itself. See e.g., Dep. Exhs. 41, 42 and 43. Moreover, the witness's testimony is also admissible pursuant to FRE 701. Also, relative to foundation, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 4 (row 21). Additionally, foundation is an objection to form which was not made during the deposition relative to introduction/use of the exhibit, and is thus waived.	438	10	438	23	Incomplete and Improper Designation; No answer designated or even offered by the witness	McKesson maintains its geographic scope objections to questions about Kermit, WV, but conditionally designates this testimony as it establishes that the questions asked are based on hearsay allegations contained in a letter to Congress that the witness did not receive. McKesson will withdraw these designations if Plaintiffs' withdraw the subsequent hearsay-based questions predicated on this letter.						
43	2	43	3	Hearsay within hearsay; geographic scope; calls for expert testimony; foundation			Same as above.		438	25	439	5	Improper Designation at 439:2-5. No question designated.	McKesson maintains its geographic scope objections to questions about Kermit, WV, but conditionally designates this testimony as it establishes that the questions asked are based on hearsay allegations contained in a letter to Congress that the witness did not receive. McKesson will withdraw these designations if Plaintiffs' withdraw the subsequent hearsay-based questions predicated on this letter.					
54	18	54	21	Calls for speculation; calls for legal conclusion			The question does not call for speculation or a legal conclusion, but rather the witness's understanding of the applicable regulatory requirement to report suspicious orders. As McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, Mr. Hartle always maintained responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson". See Dep. at 23:10-15. Thus, the witness's understanding of the regulation is neither speculation nor a legal conclusion. Moreover, the witness's answer (that the requirement to report suspicious orders is "one of the things intended to prevent diversion") confirms that he is not speculating. See Dep. at 54:23-24.	442	15	442	25		McKesson maintains its geographic scope objections to questions about Judy's Drugs, but conditionally designates this testimony as it establishes that the questions designated by plaintiffs are based off an animated video created by Plaintiffs for use in this deposition, and constitute made-for-litigation hearsay statements, not evidence. McKesson submits a still image from this animated video created by Plaintiffs as <b>Attachment A</b> for the Court's context.						
54	23	54	24	Calls for speculation; calls for legal conclusion			Same as above.		493	17	493	23	Improper Narrative; No question asked of the witness	The questioning attorney indicated that the witness should "go ahead," prompting the witness's response.					
55	2	55	6	Calls for speculation; calls for legal conclusion; Assume facts.			The question does not call for speculation or a legal conclusion, and it does not assume facts. Rather the question seeks the witness's understanding of the applicable regulatory requirement to report suspicious orders in the context of the witness's prior answer (that the requirement to report suspicious orders is "one of the things intended to prevent diversion"). See Dep. at 54:23-24. As McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, Mr. Hartle always maintained responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson". See Dep. at 23:10-15. This includes preventing diversion and understanding the consequences of filling suspicious orders. Thus, the witness's understanding of the regulation is neither speculation nor a legal conclusion, and his knowledge about the consequences of filling suspicious orders does not assume facts.	497	9	499	4	Incomplete question at 497:9-11 that is vague and lacks temporal parameters, which leads to narrative response at 497:12-498:1 that is also vague and lacks proper temporal parameters. Improper narrative response at 498:7-499:4 that is also vague and lacks proper temporal parameters.	The question is complete.						
55	8	55	9	Calls for speculation; calls for legal conclusion; Assume facts.			Same as above.		499	5	500	12	Improper narrative response that is also vague and lacks proper temporal parameters.	The witness provided a response to the question asked.					

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59	22	60	2	Foundation; hearsay within hearsay; geographic scope. Exhibit ruled inadmissible by the Court. <i>See</i> Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on exclude exhibit should be similarly inadmissible.				The foundation objection is not supported because the witness had the background, experience and responsibility to testify on these matters. As McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, Mr. Hartle always maintained responsibility for McKesson's retail national accounts for the entire country. <i>See</i> Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson". <i>See</i> Dep. at 23:10-15. Also, relative to foundation, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". <i>See</i> ECF No. 1166 at 1, and 4 (row 11). Additionally, regardless of the exhibit, the questioning about the witness's knowledge and understanding of the substantive information (e.g., opioid abuse, opioid harms, etc.) is admissible for these and the below reasons. The prior ruling was made in connection with testimony of M. Oriente, and in actuality, certain pages of the exhibit were admitted into evidence by the Court. <i>See</i> Trial Tr., May 24, 2021, at 77:6-79:5. Also, the presentation was given to the McKesson Regulatory Affairs leadership team (to instruct them) and other employees from across the country, and the author confirmed that the information in the PowerPoint was meant to be accurate. <i>See</i> Boggs 1/17/2019 dep. at 129:24-131:9. Accordingly, this PowerPoint is not hearsay pursuant to FRE 801(d)(2)(B), FRE 801(d)(2)(C), FRE 801(d)(2)(D), and/or FRE 803(6). Even the statements in this exhibit that are not made by McKesson are from government publications/reports which are exceptions to hearsay (FRE 803(8)), and any hearsay within hearsay would be cured by the aforementioned FREs and FRE 805. Additionally, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit also proves notice, knowledgeand/ or state of mind regarding: applicable distribution regulations, DEA's interpretation or enforcement of same, opioid addiction, the opioid epidemic, harms, etc.). The geographic scope objection is not applicable. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." <i>See</i> ECF 1297, at 10. The information at issue is consistent with same, and McKesson's notice, knowledge, understanding and/or state of mind regarding these matters (including its nationwide policies/procedures, the national regulations, DEA's interpretation and/or enforcement, diversion problems, opioid harms, etc.), apply to Cabell/Huntington.																																							
60	4	60	5	Foundation; hearsay within hearsay; geographic scope. Exhibit ruled inadmissible by the Court. <i>See</i> Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on exclude exhibit should be similarly inadmissible.				Same as above.																																							
66	5	66	15	Foundation; ; calls for speculation				The witness has the proper foundation to answer and the question does not call for speculation. As McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, Mr. Hartle always maintained responsibility for McKesson's retail national accounts for the entire country. <i>See</i> Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson". <i>See</i> Dep. at 23:10-15. Thus, the witness has the background, knowledge, understanding and/or role sufficient to answer the question. Moreover, the witness's answer confirms the foundation and that he is not speculating. <i>See</i> Dep. at 66:18-67:1.																																							
66	18	66	23	Foundation; calls for speculation				Same as above.																																							
66	25	67	1	Foundation; calls for speculation				Same as above.																																							
71	18	71	23	Foundation; hearsay within hearsay; geographic scope. Exhibit ruled inadmissible by the Court. <i>See</i> Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on exclude exhibit should be similarly inadmissible.				The foundation objection is not supported because the witness had the background, experience and responsibility sufficient to testify on these matters. As McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, Mr. Hartle always maintained responsibility for McKesson's retail national accounts for the entire country. <i>See</i> Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson". <i>See</i> Dep. at 23:10-15. Also, relative to foundation, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". <i>See</i> ECF No. 1166 at 1, and 4 (row 11). Additionally, regardless of the exhibit, the questioning about the witness's knowledge and understanding of the substantive information (e.g., opioid abuse, opioid harms, etc.) is admissible for these and the below reasons. The prior ruling was made in connection with testimony of M. Oriente, and in actuality, certain pages of the exhibit were admitted into evidence by the Court. <i>See</i> Trial Tr., May 24, 2021, at 77:6-79:5. Also, the presentation was given to the McKesson Regulatory Affairs leadership team (to instruct them) and other employees from across the country, and the author confirmed that the information in the PowerPoint was meant to be accurate. <i>See</i> Boggs 1/17/2019 dep. at 129:24-131:9. Accordingly, this PowerPoint is not hearsay pursuant to FRE 801(d)(2)(B), FRE 801(d)(2)(C), FRE 801(d)(2)(D), and/or FRE 803(6). Even the statements in this exhibit not made by McKesson are from government publications/reports which are exceptions to hearsay (FRE 803(8)), and any hearsay within hearsay would be cured by the aforementioned FREs and FRE 805. Additionally, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit also proves notice, knowledge and/or state of mind regarding: applicable distribution regulations, DEA's interpretation or enforcement of distribution regulations, opioid addiction, the opioid epidemic, opioid harms, etc.). The geographic scope objection is not applicable. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." <i>See</i> ECF 1297, at 10. The information at issue provides background regarding same, including McKesson's national policies/procedures as well as the opioid epidemic and/or harms. Moreover, McKesson's notice, knowledge, understanding and/or state of mind regarding these matters were national in scope, and apply to Cabell/Huntington.																																							
72	23	73	1	Foundation; hearsay within hearsay; geographic scope. Exhibit ruled inadmissible by the Court. <i>See</i> Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on exclude exhibit should be similarly inadmissible.				Same as above.																																							
73	3	73	4	Foundation; hearsay within hearsay; geographic scope. Exhibit ruled inadmissible by the Court. <i>See</i> Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on exclude exhibit should be similarly inadmissible.				Same as above.																																							
73	23	74	5	Foundation; hearsay within hearsay; geographic scope. Exhibit ruled inadmissible by the Court. <i>See</i> Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on exclude exhibit should be similarly inadmissible.				Same as above.																																							

WITNESS NAME Hartle, Nathan (fact)													
DEPOSITION DA 8/1/2018													
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74	7	74	8	Foundation; hearsay within hearsay; geographic scope. Exhibit ruled inadmissible by the Court. <i>See</i> Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on exclude exhibit should be similarly inadmissible.									
74	10	74	18	Foundation; McKesson does not object to use of page 37 of the PPT with the witness, which is one of only two pages admitted by the Court. <i>See</i> Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3.									
75	19	76	7	Foundation; calls for speculation									
76	22	77	2	Foundation; vague									
77	4	77	4	Foundation; vague									
82	9	82	20	Foundation; vague. McKesson does not object to use of page 37 of the PPT with the witness, which is one of only two pages admitted by the Court. <i>See</i> Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3.									
83	17	84	7	Foundation; calls for speculation									
84	9	84	9	Foundation; calls for speculation									
84	11	84	14	Foundation; calls for speculation									
84	24	85	10	Foundation; calls for legal conclusion									
85	12	85	14	Foundation; calls for legal conclusion									
85	16	85	19	Foundation; calls for legal conclusion									
85	21	85	22	Foundation; calls for legal conclusion									
122	15	123	5										
123	7	123	7										
123	9	123	17										
131	8	131	15										
133	8	134	6										



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134	8	134	18	compound; assumes facts not in evidence; lacks foundation as it relates to a 2013 manual when the witness did not join McKesson until late 2014.									
				The compound objection is not supported. The question merely illustrated examples for the benefit of clarity. Moreover, the witness was allowed the full opportunity to answer, did clearly answer, and indicated no problem with answering. Also, while Plaintiffs submit that the questioning/testimony is appropriate, any potential compound issue can be properly considered/accounted for and weighted accordingly in this bench trial. No facts are assumed in the question. Rather, the question sought confirmation for the basis of why McKesson no longer shares threshold levels with its customers (as previously testified by the witness). See Dep. at 134:24-25. Moreover, the witness's answer affirmatively confirmed the basis for the question. <i>Id.</i> at 134: 17-18. The foundation objection is not supported b/c the witness had the background, experience and responsibility/role sufficient to testify on these matters. As McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, Mr. Hartle always maintained responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson". See Dep. at 23:10-15. Moreover, this 2013 CSMP policy/operation manual was the very one in place at the time Mr. Hartle started as Sr. Director of Regulatory Affairs in May of 2014, and he was knowledgeable about and in fact was involved with enhancing it. See e.g., Dep. at 493:24-495:3. In fact, McKesson designated Mr. Hartle as their 30(b)(6) representative to testify about the history of its CSMP. See 7/31/2018 McKesson/Hartle Dep. Ex. 1 at 6 (topic (a) "Your past/present suspicious orders monitoring system, SOMS program, policies and procedures"). The foundation is also separately provided by the exhibit itself, which sets-forth the information at issue. See Dep. Exh. 51 at pp. 7-8. Additionally, relative to foundation, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial" and it has otherwise already been admitted during this trial. See ECF No. 1166 at 1, and 4 (row 1).									
134	20	134	22	compound; assumes facts not in evidence; lacks foundation as it relates to a 2013 manual when the witness did not join McKesson until late 2014.									
				Same as above.									
134	24	135	4	Compound; assumes facts not in evidence; lacks foundation as it relates to a 2013 manual when the witness did not join McKesson until late 2014.									
				Same as above.									
135	6	135	19	Calls for speculation; questions relate to a 2013 policy but witness did not join McKesson until late 2014.									
				The speculation objection is not supported because the witness had the background, experience and responsibility/role sufficient to testify on these matters. As McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, Mr. Hartle always maintained responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson". See Dep. at 23:10-15. Moreover, this 2013 CSMP policy/operation manual was the very one in place at the time Mr. Hartle started as Sr. Director of Regulatory Affairs in May of 2014, and he was knowledgeable about and in fact was involved with enhancing it. See e.g., Dep. at 493:24-495:3. In fact, McKesson designated Mr. Hartle as their 30(b)(6) representative to testify about the history of its CSMP. See 7/31/2018 McKesson/Hartle Dep. Ex. 1 at 6 (topic (a) "Your past/present suspicious orders monitoring system, SOMS program, policies and procedures"). Speculation is also separately inapplicable due to the exhibit itself, which sets-forth the information at issue. See Dep. Exh. 51 at pp. 7-8. Further, the witness's was able to clearly and fully answer, and in fact elaborated and provided reasoning for his answers. See Dep. at 135:24-25, 136:11-14.									
135	22	136	6	Calls for speculation; questions relate to a 2013 policy but witness did not join McKesson until late 2014.									
				Same as above.									
136	8	136	8	Calls for speculation.									
137	14	137	21	Calls for speculation; foundation; relevance									
				The speculation and foundation objections are not supported because the witness had the background, experience and responsibility/role sufficient to testify on these matters. As McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, Mr. Hartle always maintained responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson". See Dep. at 23:10-15. Moreover, this 2013 CSMP policy/operation manual was the very one in place at the time Mr. Hartle started as Sr. Director of Regulatory Affairs in May of 2014, and he was knowledgeable about and in fact was involved with enhancing it. See e.g., Dep. at 493:24-495:3. In fact, McKesson designated Mr. Hartle as their 30(b)(6) representative to testify about the history of its CSMP. See 7/31/2018 McKesson/Hartle Dep. Ex. 1 at 6 (topic (a) "Your past/present suspicious orders monitoring system, SOMS program, policies and procedures"). Speculation and foundation are also separately inapplicable due to the exhibit itself, which sets-forth the information at issue. See Dep. Exh. 51 at pp. 7-8. Further, the witness's was able to clearly and fully answer, and in fact elaborated and provided reasoning for his answers. See e.g., Dep. at 137:9-13, 138:24-139:4. Additionally, relative to foundation, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial" and has already been admitted during this trial. See ECF No. 1166 at 1, and 4 (row 1). As for relevance, this testimony shows the importance of not allowing salespeople or DC Managers (who had the financial incentive to increase/continue sales to customers) to be involved with the regulatory decision-making process over controlled substances, and how McKesson recognized the problems/deficiencies with its policies allowing for same. See Dep. Exh. 51 at p. 8. As testified by the witness, McKesson eventually "restricted and blocked incentives around controlled substances". See Dep. at 138:24-139:4.									
137	23	138	2	Calls for speculation; foundation; relevance									
				Same as above.									
138	5	138	14	Calls for speculation; foundation; relevance									
				Same as above.									
138	16	138	16	Calls for speculation; foundation; relevance									
				Same as above.									
139	10	139	15	Calls for speculation; foundation; relevance									
				Same as above.									
139	17	139	18	Calls for speculation; foundation; relevance									
				Same as above.									
139	20	140	22	Calls for speculation; foundation; relevance									
				Same as above.									
140	25	141	1	Foundation; relevance									
				Same as above.									
144	25	145	1										
				n/a									
145	3	145	5										
				n/a									
146	22	148	11										
				n/a									

WITNESS NAME Hartle, Nathan (fact)													
DEPOSITION DA 8/1/2018													
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175	2	175	5	foundation									
				The foundation objection is not supported b/c the witness had the background, experience and responsibility to testify on these matters. As McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, Mr. Hartle always maintained responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson". See Dep. at 23:10-15. Additionally, the witness's testimony confirms his knowledge regarding the questioning at issue. Further, the foundation is separately provided by the settlement at issue already admitted into evidence as well as by other trial testimony. See e.g., Exh. P-23733; Trial Tr., May 24, 2021, at 82:8-88:10.									
175	7	175	8	foundation									
175	10	175	13	foundation									
175	16	175	17	n/a									
175	21	176	24	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation; calls for legal conclusion									
				FRE 408 is not supported, as the matter in question involved a separate litigation. This is also plain from the language of the rule, which repeatedly references "prov[ing] or disprov[ing] the validity or amount of a disputed claim" by offering evidence of conduct that occurred while attempting to resolve "the claim." See FRE 408(a)(1) and (2). Further, even if FRE 408 applied, the document is admissible for "another purpose," such as to show McKesson's knowledge, notice and/or understanding of: the applicable distribution regulations, deficiencies with its national policies/procedures, the DEA's/DOJ's enforcement of applicable regulations, etc.. Fed. R. Evid. 408(b) and Committee Notes on 2006 amendment. See also, See Zurich Am. Ins. Co. v. Watts Indus., Inc., 417 F.3d 682, 689-690 (7th Cir.2005) (the law allows for the permissible use of settlement communications as evidence when "the settlement communication at issue arise out of a dispute that is distinct from the one for which the evidence is being offered."). Moreover, the MDL Court determined that the document is admissible (see MDL dkt. 3052 at pp. 21-22). Hearsay is not applicable because FRE 801(c)(2) is not satisfied (since it is offered for McKesson's notice, knowledge, and/or understanding of the matters identified above, and not solely introduced for the truth of the matter). Geographic scope is not applicable as this Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue relates to national regulations as well as McKesson's national policies/procedures regarding same, each of which apply to Cabell/Huntington. Foundation is established through the document as well as through the witness's testimony confirming his understanding as well as the fact that he was McKesson's Senior Director of Regulatory Affairs at the time. See Dep. at 176:3-12. Also, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 4 (row 26). Further, foundation is an objection to form which was not made during the deposition relative to use of this exhibit and/or relative to one or more questions, and as such the objection is waived as to same. The question does not call for a legal conclusion, but rather the witness's understanding of the applicable regulatory requirements and/or DEA/DOJ enforcement of same.									
177	18	177	23	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation; calls for legal conclusion									
177	25	178	1	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation; calls for legal conclusion									
178	3	179	18	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation; calls for legal conclusion									
179	20	179	21	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation; calls for legal conclusion									
180	13	181	2	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation									
181	6	181	6	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation									
181	8	181	8	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation									
181	10	181	16	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation; assumes facts not in evidence									
181	18	181	19	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation; assumes facts not in evidence									

WITNESS NAME Hartle, Nathan (fact)														
DEPOSITION DA 8/1/2018														
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181	21	182	11	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation; assumes facts not in evidence										
182	14	183	2	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation; assumes facts not in evidence										
184	12	185	22	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation; assumes facts not in evidence										
185	24	185	25	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation; assumes facts not in evidence										
186	2	186	20	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation										
186	22	186	24	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation										
187	2	187	3	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation										
187	6	188	7	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation										
188	9	188	10	Document was sent to outside counsel in context of negotiations regarding an investigation and potential settlement, such that use would violate 408; Hearsay; geographic scope; foundation										
190	14	190	20	Hearsay; geographic scope; foundation; calls for legal conclusion										
190	22	190	23											
190	25	191	11	Foundation; relevance										
				Lack of foundation is not supported, as this involves an email written by the witness himself. See Dep. Exh. 55. Moreover, the witness was McKesson's Senior Director of Regulatory Affairs at the time, with responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson", which encompasses the topic at issue (thresholds). See Dep. at 23:10-15. Additionally, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 4 (row 33). Plaintiffs submit that the relevance is evident from the document as well as subsequent testimony regarding same. See Dep. Exh. 55; Dep. at pp. 193-198. Among other things, this shows how McKesson raised customers' (e.g., Rite Aid) controlled substance thresholds inappropriately and used calculations, buffers, and "rounding up" as part of same. See Dep. Exh. 55 at p. 1.										
191	19	193	12	Foundation; geographic scope; relevance; letter referenced at 192:10-15 was sent in the context of a Rule 408 negotiation.										
				Lack of foundation is not supported, as this involves another email written by the witness himself. See Dep. Exh. 56. Moreover, the witness was McKesson's Senior Director of Regulatory Affairs at the time, with responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson", which encompasses the topic at issue (thresholds). See Dep. at 23:10-15. Additionally, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 4 (row 32). Geographic scope is not applicable as this Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue relates to McKesson's national policies/procedures, which apply to Cabell/Huntington. Plaintiffs submit that the relevance is evident from the document as well as subsequent testimony regarding same. See Dep. Exh. 56; Dep. at pp. 193-198. Among other things, this shows how McKesson's national policy/procedure raised customers' controlled substance thresholds inappropriately and used calculations, buffers, and "rounding up" as part of same. As for the FRE 408 objection regarding the letter referenced at 192:10-15, please see response regarding designation at 175:21-176:24. Moreover, the questioning regarding this letter is merely for context, and any issue with same can be properly considered and weighed in this bench trial.										
193	14	193	15											
				n/a										



WITNESS NAME Hartle, Nathan (fact)															
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193	17	194	6	Foundation; relevance											
				Lack of foundation is not supported, as this involves another email written by the witness himself. See Dep. Exh. 56. Moreover, the witness was McKesson's Senior Director of Regulatory Affairs at the time, with responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson", which encompasses the topic at issue (setting thresholds). See Dep. at 23:10-15. Additionally, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 4 (row 32). As for relevance, Plaintiffs submit that it is evident from the document as well as subsequent testimony regarding same. See Dep. Exh. 56; Dep. at pp. 193-198. Among other things, this shows how McKesson's national policy/procedure raised customers' controlled substance thresholds inappropriately and used calculations, buffers, and "rounding up" as part of same.											
194	14	194	22	Foundation; relevance											
195	11	195	23	Assumes facts not in evidence; foundation; relevance											
				Assuming facts and lack of foundation are objections to form which were not raised during the deposition and are thus waived. Moreover, the facts and foundation are provided by the testimony and the exhibit itself, which is an email written by the witness himself. See Dep. Exh. 56. Further, the witness had the background, knowledge and role sufficient to testify on this matter, as he was McKesson's Senior Director of Regulatory Affairs at the time, with responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson", which encompasses the topic at issue (setting thresholds). Additionally, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 4 (row 32). As for relevance, Plaintiffs submit that it is evident from the document as well as subsequent testimony regarding same. See Dep. Exh. 56; Dep. at pp. 193-198. Among other things, this shows how McKesson's national policy/procedure raised customers' controlled substance thresholds inappropriately and used calculations, buffers, and "rounding up" as part of same.											
197	6	197	9	Vague; Assumes facts.											
				The questionning is not vague and facts are not assumed, as the questioning walks through the methodology set-forth by the witness as written in his email. See Dep. Exh. 56. The witness clearly understood the questioning and fully answered. In fact, the witness confirms that "[t]hose are part of the calculations at the time". See Dep. at 197:3-4. Further, any alleged issue with vagueness can be properly minimized and/or weighed in this bench trial.											
197	12	197	19	Assumes facts not in evidence; foundation; relevance											
				The facts and foundation are provided by the testimony as well as the exhibit itself, which is an email written by the witness. See Dep. Exh. 56. In fact, the witness confirmed the questioning and elaborated on it in his answer. See Dep. at 197:21-22, 25. Further, the witness had the background, knowledge and role sufficient to testify on this matter, as he was McKesson's Senior Director of Regulatory Affairs at the time, with responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson", which encompasses the topic at issue (setting thresholds). As for relevance, Plaintiffs submit that it is evident from the document as well as subsequent testimony regarding same. See Dep. Exh. 56; Dep. at pp. 193-198. Among other things, this shows how McKesson raised customers' controlled substance thresholds inappropriately and used calculations, buffers, and "rounding up" as part of same.											
197	21	197	22												
198	1	198	9	Assumes facts not in evidence; foundation; relevance											
				The facts and foundation are provided by the testimony as well as the exhibit itself, which is an email written by the witness. See Dep. Exh. 56. In fact, the witness confirmed the questioning and elaborated on it in his answers. See Dep. at 198:11-13. Further, the witness had the background, knowledge and role sufficient to testify on this matter, as he was McKesson's Senior Director of Regulatory Affairs at the time, with responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson", which encompasses the topic at issue (setting thresholds). Additionally, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 4 (row 32). As for relevance, Plaintiffs submit that it is evident from the document as well as subsequent testimony regarding same. See Dep. Exh. 56; Dep. at pp. 193-198. Among other things, this shows how McKesson's national policy/procedure raised customers' controlled substance thresholds inappropriately and used calculations, buffers, and "rounding up" as part of same.											
198	11	198	13												
198	15	198	18	Foundation; vague; relevance											
				Lack of foundation and vagueness are objections to form which were not raised during the deposition, and are thus waived. Moreover, the foundation is provided by the testimony and the exhibit itself, which is an email written by the witness himself. See Dep. Exh. 56. Further, the witness had the background, knowledge and role sufficient to testify on this matter, as he was McKesson's Senior Director of Regulatory Affairs at the time, with responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson", which encompasses the topic at issue (setting thresholds). Additionally, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 4 (row 32). The questionning is not vague, as it walks through the methodology set-forth by the witness as written in his email. See Dep. Exh. 56. In fact, the witness understood the questioning and was capable of fully answering same as shown by his testimony. See Dep. at 198:11-13, 18. Further, any alleged issue with vagueness can be properly minimized and/or weighed in this bench trial. As for relevance, Plaintiffs submit that it is evident from the document as well as subsequent testimony regarding same. See Dep. Exh. 56; Dep. at pp. 193-198. Among other things, this shows how McKesson's national policy/procedure raised customers' controlled substance thresholds inappropriately and used calculations, buffers, and "rounding up" as part of same.											
200	24	202	10	Geographic scope; relevance; foundation											
				Geographic scope is not applicable as this Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue relates to McKesson's national policies/procedures, which apply to Cabell/Huntington. As for relevance, Plaintiffs submit that it is evident from the document as well as subsequent testimony regarding same. See Dep. Exh. 55; Dep. at pp. 201-206. Among other things, this shows how McKesson raised customers' (e.g., Rite Aid) controlled substance thresholds inappropriately and used calculations, buffers, and "rounding up" as part of same. See Dep. Exh. 55 at p. 1. Lack of foundation is not applicable as this involves an email written by and including the witness himself. See Dep. Exh. 55. Moreover, the witness was McKesson's Senior Director of Regulatory Affairs at the time, with responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson", which encompasses the topic at issue (thresholds). See Dep. at 23:10-15. Additionally, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 4 (row 33).											
202	22	202	25												
204	7	204	17	Geographic scope - McKesson did not service any Wegmans in Huntington/Cabell County											
				Geographic scope is not applicable as this Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue relates to McKesson's national policies/procedures, which apply to Cabell/Huntington. Among other things, this shows how McKesson raised customers' (e.g., Rite Aid) controlled substance thresholds inappropriately and used calculations, buffers, and "rounding up" as part of same. See Dep. Exh. 55 at p. 1.											

WITNESS NAME Hartle, Nathan (fact) DEPOSITION DA 8/1/2018															
AFFIRMATIVE DEPOSITION DESIGNATIONS					COUNTER DESIGNATIONS * <i>Pink</i> = Completeness Designation					REPLY DESIGNATIONS * <i>Pink</i> = Completeness Designation					
Page/ e Begin	Page/ e End	Objections	Objection Notes	Replies to Objections	Page/ e Begin	Page/ e End	Objections	Replies to Objections	Page/ e Begin	Page/ e End	Objections	Replies to Objections	Page/ e Begin	Page/ e End	Objections
205	5	205	19	Geographic scope - McKesson did not service any Wegmans in Huntington/Cabell County											
206	3	206	19	Geographic scope - McKesson did not service any Wegmans in Huntington/Cabell County											
206	22	206	23	n/a											
209	17	210	13	Geographic scope; hearsay; Exhibit was sent to McKesson's outside counsel in the context of an investigation and negotiation of settlement and use is barred under Rule 408.											
210	16	211	9	Geographic scope; hearsay; Exhibit was sent to McKesson's outside counsel in the context of an investigation and negotiation of settlement and use is barred under Rule 408.											
212	1	212	20	Argumentative; assumes facts; foundation.											
212	22	212	22	n/a											
212	24	213	5	Argumentative; assumes facts; foundation.											
213	7	213	8	Argumentative; assumes facts; foundation.											
221	19	222	19	Foundation; McKesson preserves its objection to introduction of this document, but recognizes that the court has ruled it admissible; allegations within the documents are hearsay.											
222	21	222	21	n/a											
222	25	223	4	Foundation; hearsay											
223	8	223	14	Foundation; hearsay											
223	17	224	6	Foundation; hearsay											
224	8	224	8	n/a											
225	8	225	9	Foundation; calls for speculation; hearsay											
225	12	226	19	Mischaracterizes the content of McKesson's 2017 settlement agreement.											

WITNESS NAME														
Hartle, Nathan (fact)														
DEPOSITION DA														
8/1/2018														
AFFIRMATIVE DEPOSITION DESIGNATIONS					COUNTER DESIGNATIONS * <i>Pink</i> = Completeness Designation					REPLY DESIGNATIONS * <i>Pink</i> = Completeness Designation				
Page/Lin e Begin	Page/Lin e End	Objections	Objection Notes	Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections	Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections	Replies to Objections		
226	21	226	22	n/a										
227	18	227	20	Argumentative; foundation; vague										
				The question is not argumentative or vague, as the phrase "business as usual" is quoted from the email itself. See Dep. Exh. 59. Moreover, the witness was given the opportunity to answer and did answer with his elaboration, showing that he had no confusion or difficulty with the question. Further, while Plaintiffs submit the question is appropriate, any alleged argument or vagueness can be properly considered, minimized and/or weighed in this bench trial. Foundation is provided in the exhibit itself, and the quoted language is from the email written by the witness himself. Id . Further, the witness was McKesson's Senior Director of Regulatory Affairs at the time, with responsibility for McKesson's retail national accounts for the entire country, which encompassed the topics at issue (e.g., retail customers, thresholds). See Dep. at 15:18-25, 16:2-12, 18:12-23, 23:10-15 and 24:20-25:1.										
227	23	227	24	Argumentative; foundation; vague										
228	1	228	2	Foundation										
240	14	242	11	Relevance; foundation										
				The relevance is that McKesson's trade organization (HDMA), which works on McKesson's behalf and has McKesson on its Executive Committee, is articulating and admitting the viewpoint that the efforts of States to "address, reduce, [and] prevent prescription abuse and diversion" is a problem or "challenge" as opposed to a good thing. Aside from proving notice, mind-set and/or motive, this also contradicts McKesson's claims that it did as much as it could to cooperate with regulators. Also, this Court has already addressed relevance of such information. See ECF 1360 at 5-6 ("The court agrees with plaintiffs and Judge Polster that the evidence is relevant for these purposes. Furthermore, the court concludes that the probative value of this evidence is not outweighed by any prejudice to defendants."). The Lack of foundation is an objection to form which was not made during the deposition regarding nearly all of the questions in this designation, and thus is waived regarding same. Lack of foundaiton is also not supported because the witness was McKesson's Senior Director of Regulatory Affairs at the time, with responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23, 23:10-15 and 24:20-25:1. And, the witness was knowledgeable about the HDMA and the fact that McKesson was on the Executive Committee. See Dep. at 241:13-18. Further, McKesson stipulated that this exhibit could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 4 (row 37).										
242	13	242	15	Relevance; foundation; use of document and questions would violate the Noerr-Pennington doctrine as it relates expressly to lobbying efforts and positions.										
				Same response as above relative to relevance and foundation objections. As for the Noerr-Pennington objection, this Court and the MDL Court already ruled that Noerr-Pennington related activities (e.g., lobbying, filing amicus briefs, etc.) are relevant and admissible, particularly in light of Defendants' claims that they did not understand their duties. See ECF 1360 at 5-6 ("The court agrees with plaintiffs and Judge Polster that the evidence is relevant for these purposes. Furthermore, the court concludes that the probative value of this evidence is not outweighed by any prejudice to defendants."). See also , In re Nat'l Prescription Opiate Litig., No. 1:17-MD-2804, 2020 WL 6450290, at *20 (N.D. Ohio Nov. 3, 2020). Moreover, as previously confirmed, Plaintiffs are not arguing that the H.D.A./HDMA and Defendants were not allowed to lobby or that they are liable for lobbying efforts.										
242	17	242	19	Relevance; foundation; use of document and questions would violate the Noerr-Pennington doctrine as it relates expressly to lobbying efforts and positions.										
				Same as above.										
286	18	287	24	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.										
				The objections to lack of foundation and speculaiton are objections to form which were not made during the depositon for nearly all of the questions/answers, and are thus waived relative to same. Moreover, the witness was McKesson's Senior Director of Regulatory Affairs at the time, with responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson", which encompasses the topics at issue (e.g., regulatory requirements, identifying suspicious orders, reporting suspicious orders, thresholds). See Dep. at 23:10-15; Dep. Exh. 54. In fact, the witness testified that he previously reviewed the document at issue, was familiar with the topics, and his answers show that he is not speculating. See e.g. , Dep. at 286:18-25, 289:15-18, 290:23-291:19. Additionally, McKesson stipulated that the letter in question could be introduced "without the use of a sponsoring witness at trial". See ECF No. 1166 at 1, and 4 (row 26). Geographic scope is not applicable as this Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue relates to McKesson's national policies/procedures, which apply to Cabell/Huntington. FRE 408 is inapplicable as the matter in question involved a separate litigation. This is also plain from the language of the rule, which repeatedly references "prov[ing] or disprov[ing] the validity or amount of a disputed claim" by offering evidence of conduct that occurred while attempting to resolve "the claim." See FRE 408(a)(1) and (2). Further, even if FRE 408 applied, the document is admissible for "another purpose," such as to show McKesson's knowledge, notice and/or understanding of: the applicable distribution regulations, deficiencies with its national policies/procedures, the DEA's/DOJ's enforcement of applicable regulations, etc. See Fed. R. Evid. 408(b) and Committee Notes on 2006 amendment. See also, See Zurich Am. Ins. Co. v. Watts Indus., Inc. , 417 F.3d 682, 689-690 (7th Cir.2005) (the law allows for the permissible use of settlement communications as evidence when "the settlement communication at issue arise out of a dispute that is distinct from the one for which the evidence is being offered."). Moreover, the MDL Court determined that the document is admissible (see MDL dkt. 3052 at pp. 21-22). Hearsay is not applicable because FRE 801(c)(2) is not satisfied since it is offered for McKesson's notice, knowledge, and/or understanding of the matters identified (e.g., regulatory requirements, identifying suspicious orders, reporting suspicious orders, thresholds), and not solely introduced for the truth of the matter.										
288	1	288	2	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.										
				Same as above.										
288	21	289	14	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.										
				Same as above response regarding objection to designation at 286:18-287:24.										
289	19	290	4	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.										
				Same as above response regarding objection to designation at 286:18-287:24.										

WITNESS NAME Hartle, Nathan (fact)																	
DEPOSITION DA 8/1/2018																	
AFFIRMATIVE DEPOSITION DESIGNATIONS						COUNTER DESIGNATIONS * <i>Pink</i> = Completeness Designation						REPLY DESIGNATIONS * <i>Pink</i> = Completeness Designation					
Page/Lin e Begin	Page/Lin e End	Objections	Objection Notes	Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections	Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections	Replies to Objections					
290	6	290	7	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.													
290	9	290	25	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.													
291	20	292	7	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.													
292	9	292	20	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.													
292	22	292	23	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.													
292	25	293	12	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.													
293	14	293	15	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.													
293	17	293	20	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.													
293	22	293	23	Foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.													
294	1	294	13	Argumentative; foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.				Same as above response regarding objection to designation at 286:18-287:24. Also, relative to the argumentative objection, this too is a form objection which was not raised during the deposition relative to the question/answer at 294:1-9, and thus is waived relative to same. Moreover, the witness was capable of answering and did answer the remaining question at 294:10-13. Further, while Plaintiffs submit that the substance of the question at 294:10-13 is valid, any alleged argumentative portion can be properly considered, accounted for and/or weighed in this bench trial.									
294	15	294	16	Argumentative; foundation; geographic scope; hearsay; calls for speculation; letter asked about in questioning was sent to McKesson's outside counsel in the context of an investigation and negotiation regarding potential settlement and is inadmissible under Rule 408.				Same as above.									

WITNESS NAME				Hartle, Nathan (fact)																	
DEPOSITION DA				8/1/2018																	
AFFIRMATIVE DEPOSITION DESIGNATIONS														COUNTER DESIGNATIONS * <i>Pink</i> = Completeness Designation				REPLY DESIGNATIONS * <i>Pink</i> = Completeness Designation			
Page/Lin e Begin	Page/Lin e End	Objections		Objection Notes	Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections		Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections		Replies to Objections						
318	24	319	10	Foundation; calls for speculation; relevance/geographic scope - discussion of an abstract possibility of migration without any geographic nexus or evidence related to Huntington/Cabell.																	
319	25	320	16	Foundation; hearsay - slide in question was copy/pasted from DEA deck; geographic scope - slide does not depict West Virginia.																	
320	18	320	20	Foundation; hearsay - slide in question was copy/pasted from DEA deck; geographic scope - slide does not depict West Virginia.																	
321	6	321	17		n/a																
323	5	323	11	Vague; calls for speculation; assumes facts insofar as it is asking about diversion from distribution centers, of which there is not evidence; relevant/geographic scope - discussing the possibility of diversion in the abstract without any geographic nexus or evidence related to Huntington/Cabell.																	
323	13	323	14	Vague; calls for speculation; assumes facts insofar as it is asking about diversion from distribution centers, of which there is not evidence; relevant/geographic scope - discussing the possibility of diversion in the abstract without any geographic nexus or evidence related to Huntington/Cabell.																	
389	12	390	1		n/a																
390	3	390	12		n/a																
390	14	390	23		n/a																
390	25	391	1		n/a																
391	13	391	19		n/a																
391	21	392	1		n/a																
429	15	429	24	Foundation; calls for speculation																	
430	1	430	7	Foundation; calls for speculation																	
430	9	430	11	Foundation; vague; calls for speculation. Objection to 430:4-7 - counsel asks question but does not provide witness an opportunity to respond. Designating counsel's question without any answer is improper narrative.																	
430	13	430	20	Foundation; calls for speculation; argumentative insofar as the questioning attorney cuts of and speaks over the witness.																	



WITNESS NAME Hartle, Nathan (fact) DEPOSITION DA 8/1/2018															
AFFIRMATIVE DEPOSITION DESIGNATIONS								COUNTER DESIGNATIONS * <i>Pink</i> = Completeness Designation				REPLY DESIGNATIONS * <i>Pink</i> = Completeness Designation			
Page/Lin e Begin	Page/Lin e End	Objections	Objection Notes	Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections	Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections	Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections
431	5	431	11	Foundation; calls for speculation insofar as it seeks to have the witness answer for McKesson's operations prior to him joining the company in 2014.			Same as above. Also, the witness had testified that, as part of his responsibilities, he researched and was familiar with how McKesson's operations worked prior to his joining the company (as he was involved with enhancements of same). See e.g. , Dep. at 493:24-495:3. In fact, McKesson designated Mr. Hartle as their 30(b)(6) representative to testify about the history of its CSMP. See e.g. , 7/31/2018 McKesson/Hartle Dep. Ex. 1 at 6 (topic (a) "Your past/present suspicious orders monitoring system, SOMS program, policies and procedures"). Moreover, the question was specifically qualified to address McKesson's operations as of the time the witness joined the company ("at least when you came along"). See Dep. at 431:11.								
431	13	431	14	Foundation; calls for speculation insofar as it seeks to have the witness answer for McKesson's operations prior to him joining the company in 2014.			Same as above.								
437	20	438	3	Foundation; calls for speculation; calls for expert opinion; argumentative insofar a the questioning attorney cut off and spoke over the witness while he answered.			The lack of foundation, speculation, and expert opinion objections are not supported. The witness had the background, knowledge, experience and role sufficient to testify on this matter, as he was McKesson's Senior Director of Regulatory Affairs, with responsibility for McKesson's retail national accounts for the entire country. See Dep. at 15:18-25, 16:2-12, 18:12-23 and 24:20-25:1. As part of his job, Mr. Hartle had the responsibility "to understand and implement the controlled substance monitoring program ["CSMP"] of McKesson", which encompasses the topic at issue (consequences of oversupply). See Dep. at 23:10-15. Additionally, the witness's answer did not indicate that he lacked foundation or that he was speculating. As for the argumentative objection, Plaintiffs submit that the attorney did not "cut off" the witness, but rather was agreeing with the witness by saying "right". Moreover, this was very minor and the witness was allowed to (and did) finish his answer. See Dep. at 438:5-9. Further, to the extent any alleged argumentative questioning is present, the Court can properly consider, account for and weigh same in this bench trial.								
438	5	438	9	Foundation; calls for speculation; calls for expert opinion; argumentative insofar a the questioning attorney cut off and spoke over the witness while he answered.			Same as above.								
439	6	439	11	Lacks relevance/geographic scope - questions relate to a town not within Huntington/Cabell; hearsay - questioning is based on hearsay allegations in a letter from Congress that counsel purports to offer for the truth (see 438:2-5). Calls for speculation about distribution predating Mr. Hartle's employment.			The objection to relevance/geographic scope is not supported. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue provides evidence of systemic failures with McKesson's national policies and procedures and/or over-shipping of opioids without proper monitoring or reporting. Moreover, the witness's/McKesson's notice, knowledge, understanding and/or mindset regarding the deficiencies apply equally or similarly to Cabell/Huntington. The hearsay objection is not supported, as the questioning can stand on its own, with the exhibit/letter used for demonstrative purposes (particularly since the witness knew about the underlying matter). Moreover, hearsay is inapplicable pursuant to FRE 803(8) and/or FRE 807. Additionally, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit/testimony also proves notice, knowledge, understanding, and/or state of mind relative to: shipping suspicious orders, diversion, policy/procedure deficiencies, and other relevant matters). The objection to speculation is not supported because the witness had the background, knowledge, experience and role sufficient to testify on this matter (as McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, including responsibility to understand distribution and diversion, and to implement as well as enhance McKesson's CSMP to address same). See e.g. , Dep. at 15:18-25, 16:2-12, 18:12-23, 23:10-15, 24:20-25:1, 493:24-495:3. In fact, McKesson designated Mr. Hartle as their 30(b)(6) representative to testify about the history of its CSMP and its shipment of suspicious orders. See 7/31/2018 McKesson/Hartle Dep. Ex. 1 at pp. 5-6 (from "1995 to the present", topic (a) "Your past/present suspicious orders monitoring system, SOMS program, policies and procedures", and topic (g) "Whether You historically shipped suspicious orders without reporting and/or conducting due diligence"). Speculation is also not supported based on the witness's testimony that he knew about Kermit, WV and the large number of opioids distributed there. See Dep. at 439:13-24.								
439	13	439	21	Lacks relevance/geographic scope - questions relate to a town not within Huntington/Cabell; hearsay - questioning is based on hearsay allegations in a letter from Congress that counsel purports to offer for the truth (see 438:2-5). Calls for speculation about distribution predating Mr. Hartle's employment.			Same as above.								
439	23	439	25	Lacks relevance/geographic scope - questions relate to a town not within Huntington/Cabell; hearsay - questioning is based on hearsay allegations in a letter from Congress that counsel purports to offer for the truth (see 438:2-5). Calls for speculation about distribution predating Mr. Hartle's employment.			Same as above.								
442	4	442	9	Lacks relevance/geographic scope - questions relate to a town not within Huntington/Cabell; hearsay - questioning is based on hearsay allegations in a letter from Congress that counsel purports to offer for the truth (see 438:2-5). Calls for speculation about distribution predating Mr. Hartle's employment.			Same as above.								
442	11	442	14	Lacks relevance/geographic scope - questions relate to a town not within Huntington/Cabell; hearsay - questioning is based on hearsay allegations in a letter from Congress that counsel purports to offer for the truth (see 438:2-5). Calls for speculation about distribution predating Mr. Hartle's employment.			Same as above.								

WITNESS NAME Hartle, Nathan (fact)															
DEPOSITION DA 8/1/2018															
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Page/Lin e Begin	Page/Lin e End	Objections	Objection Notes	Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections	Replies to Objections	Page/Lin e Begin	Page/Lin e End	Objections	Replies to Objections			
443	1 443	5 Foundation; calls for speculation; lacks relevance/geographic scope as Judy's Drugs is not in Huntington/Cabell; questioning is based on hearsay statements in video created by Plaintiffs' for use in deposition. See <b>Attachment A</b> . The video is not a proper demonstrative, as it does not demonstrate Mr. Hartle's testimony, but was introduced as an exhibit that formed the basis of questioning.		The foundation and speculation objections are not supported because the witness had the background, knowledge, experience and role sufficient to testify on this matter (as McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, including responsibility to understand diversion and over-supply, as well as to implement and enhance McKesson's CSMP to address same). See <i>e.g.</i> , Dep. at 15:18-25, 16:2-12, 18:12-23, 23:10-15, 24:20-25:1, 493:24-495:3. Moreover, the witness's answers show that he is familiar with the material at issue (e.g., diversion, over-supply/distribution). The hearsay objection is not applicable, as the questioning can stand on its own, with the exhibit/video used for demonstrative purposes (particularly since the witness understood the underlying matters of over-suply and diversion). Additionally, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit/testimony also proves notice, knowledge, understanding, and/or state of mind relative to: shipping suspicious orders, diversion, over-supply/distribution, opioid harms, etc.). The objection to relevance/geographic scope is not supported. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue provides notice of systemic failures with McKesson's national policies and procedures, diversion, over-shipment of opioids without proper monitoring or reporting, and/or opioid harms. Moreover, the witness's/McKesson's notice, knowledge, understanding and/or mindset regarding the deficiencies and/or harms apply equally or similarly to Cabell/Huntington.											
443	7 443	14 Foundation; calls for speculation; lacks relevance/geographic scope as Judy's Drugs is not in Huntington/Cabell; questioning is based on hearsay statements in video created by Plaintiffs' for use in deposition. See <b>Attachment A</b> . <b>The video is not a proper demonstrative, as it does not</b>		Same as above. Also, the objections to foundation and speculation are objections to form which were not made during the deposition, and are thus waived.											
446	7 447	9 Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.		The foundation objection is not supported because the witness had the background, knowledge, experience and role sufficient to testify on this matter (as McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, including responsibility to understand distribution, diversion, over-supply and opioid harms, as well as to implement and enhance McKesson's CSMP to address same). See <i>e.g.</i> , Dep. at 15:18-25, 16:2-12, 18:12-23, 23:10-15, 24:20-25:1, 493:24-495:3. Moreover, the witness testified that he was familiar with the material at issue (e.g., diversion, over-supply/distribution, opioid addiction, opioid deaths, opioid harms). The hearsay objection is not supported, as the questioning can stand on its own, with the exhibit/letter used for demonstrative purposes (particularly since the witness knew aabout the underlying matters). Moreover, hearsay is inapplicable pursuant to FRE 803(8) and/or FRE 807. Additionally, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit/testimony also proves notice, knowledge, understanding, and/or state of mind relative to: shipping suspicious orders, diversion, over-supply/distribution, policy/procedure deficiencies, opioid harms, and other relevant matters). This also cures any alleged hearsay within hearsay. See FRE 805. The objection to relevance/geographic scope is not supported. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue provides notice of systemic failures with McKesson's national policies and procedures, over-shipment of opioids without proper monitoring or reporting, and/or opioid harms. Moreover, the witness's/McKesson's notice, knowledge, understanding and/or mindset regarding the deficiencies and/or harms apply equally or similarly to Cabell/Huntington.											
447	11 448	3 Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.		Same as above.											
448	5 448	7 Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.		Same as above.											
450	20 451	16 Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.		Same as above.											
452	13 453	6 Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.		Same as above.											
453	8 453	23 Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.		Same as above. Also, the objection to foundation is an objection to form which was not made during the deposition relative to nearly all of the quesitons/answers in this designation (453:9-23), and are thus waived relative to same. Further, the witness testified that he was aware of the numbers at issue. See Dep. at 453:10-15.											

WITNESS NAME Hartle, Nathan (fact)													
DEPOSITION DA 8/1/2018													
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Page/Line Begin	Page/Line End	Objections	Objection Notes	Replies to Objections	Page/Line Begin	Page/Line End	Objections	Replies to Objections	Page/Line Begin	Page/Line End	Objections	Replies to Objections	
454	3	454	7	Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.				The foundation objection is not supported because the witness had the background, knowledge, experience and role sufficient to testify on this matter (as McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, including responsibility to understand distribution, diversion, over-supply and opioid harms, as well as to implement and enhance McKesson's CSMP to address same). See e.g., Dep. at 15:18-25, 16:2-12, 18:12-23, 23:10-15, 24:20-25:1, 493:24-495:3. Moreover, the witness testified that he was familiar with the material at issue (e.g., diversion, over-supply/distribution, opioid addiction, opioid deaths, opioid harms). The hearsay objection is not supported, as the questioning can stand on its own, with the exhibit/letter used for demonstrative purposes (particularly since the witness knew aobut the underlying matters). Moreover, hearsay is inapplicable pursuant to FRE 803(8) and/or FRE 807. Additionally, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit/testimony also proves notice, knowledge, understanding, and/or state of mind relative to: shipping suspicious orders, diversion, over-supply/distribution, policy/procedure deficiencies, opioid harms, and other relevant matters). This also cures any alleged hearsay within hearsay. See FRE 805. The objection to relevance/geographic scope is not supported. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue provides notice of systemic failures with McKesson's national policies and procedures, over-shipping of opioids without proper monitoring or reporting, and/or opioid harms. Moreover, the witness's/McKesson's notice, knowledge, understanding and/or mindset regarding the deficiencies and/or harms apply equally or similarly to Cabell/Huntington.					
454	13	455	1	Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.				Same as above.					
455	3	455	25	Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.				Same as above.					
456	2	456	2	Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.				Same as above.					
457	1	457	4	Calls for speculation. Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.				Same as above.					
457	6	457	8	Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.				Same as above.					
465	17	465	25	Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.				Same as above.					
466	11	466	16	Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.				Same as above.					
467	9	467	11	Argumentative. Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.				The argumentative objection is inapplicable, as the question was asked seeking the witness's perspective, particularly in his role leading McKesson's regulatory compliance. Also, the witness understood and was able to respond to the question. Further, to the extent any alleged argument is present, the Court can properly consider, account for and/or weigh same in this bench trial. The foundation objection is not supported because the witness had the background, knowledge, experience and role sufficient to testify on this matter (as McKesson's VP of Regulatory Affairs and Compliance, and prior to that, as a Senior Director of Regulatory Affairs, including responsibility to understand distribution, diversion, over-supply and opioid harms, as well as to implement and enhance McKesson's CSMP to address same). See e.g., Dep. at 15:18-25, 16:2-12, 18:12-23, 23:10-15, 24:20-25:1, 493:24-495:3. Moreover, the witness testified that he was familiar with the material at issue (e.g., diversion, over-supply/distribution, opioid addiction, opioid deaths, opioid harms). The hearsay objection is not supported, as the questioning can stand on its own, with the exhibit/letter used for demonstrative purposes (particularly since the witness knew aobut the underlying matters). Moreover, hearsay is inapplicable pursuant to FRE 803(8) and/or FRE 807. Additionally, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit/testimony also proves notice, knowledge, understanding, and/or state of mind relative to: shipping suspicious orders, diversion, over-supply/distribution, policy/procedure deficiencies, opioid harms, and other relevant matters). This also cures any alleged hearsay within hearsay. See FRE 805. The objection to relevance/geographic scope is not supported. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue provides notice of systemic failures with McKesson's national policies and procedures, over-shipping of opioids without proper monitoring or reporting, and/or opioid harms. Moreover, the witness's/McKesson's notice, knowledge, understanding and/or mindset regarding the deficiencies and/or harms apply equally or similarly to Cabell/Huntington.					

WITNESS NAME Hartle, Nathan (fact)														
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467	13	467	14	Argumentative. Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.										
468	21	469	3	Argumentative. Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.										
469	5	469	8	Argumentative. Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.										
469	14	469	19	Argumentative. Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.										
469	21	470	2	Argumentative. Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.										
471	5	472	6	Argumentative. Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.										
472	10	472	22	Argumentative. Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.										
472	24	473	1	Argumentative. Foundation; hearsay; hearsay within hearsay; lacks relevance/geographic scope as the hearsay allegations in the document do not relate to any pharmacies located in Huntington-Cabell.										
478	12	478	13	Foundation; hearsay - document is a 2011 Charleston Gazette article; geographic scope - news paper article relates to Williamson, WV.				The objection to foundation is an objection to form which was not made during the deposition, and is thus waived. Moreover, the topics at issue (prescription drug abuse, transitioning from prescription opioids to heroin, etc.) are within the witness's knowledge, experience and responsibilities (as McKesson's VP of Regulatory Affairs and Compliance, and prior to that McKesson's Sr. Director of Regulatory Affairs). <i>See e.g.</i> , Dep. at 15:18-25, 16:2-12, 18:12-23, 23:10-15, 24:20-25:1, 493:24-495:3. Hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit/testimony also proves notice, knowledge, understanding, and/or state of mind relative to: transition to heroin, diversion, opioid abuse, and other relevant matters). The geographic scope objection is not supported, as the witness's/McKesson's notice, knowledge, understanding and/or state of mind relative to these matters were national in scope (as were their related policies/procedures), all of which apply to Cabell/Huntington.						
478	17	479	8	Foundation; hearsay - document is a 2011 Charleston Gazette article; geographic scope - news paper article relates to Williamson, WV.										
479	21	481	7	Foundation; hearsay - document is a 2011 Charleston Gazette article; geographic scope - news paper article relates to Williamson, WV. Objection to 480:15-481:7 - Calls for expert testimony; lacks foundation; stated opinion based on hearsay. While the witness testified he generally stays current on news, that is not evidence he was on "notice" of a specific article published a year prior to him joining McKesson.				The objection to foundation is an objection to form which was not made during the deposition for nearly all of the questions/answers in this designation (479:21-480:25), and is thus waived relative to same. Moreover, the topic at issue (transitioning from prescription opioids to heroin) is within the witness's knowledge, experience and responsibilities (as McKesson's VP of Regulatory Affairs and Compliance, and prior to that McKesson's Sr. Director of Regulatory Affairs). <i>See e.g.</i> , Dep. at 15:18-25, 16:2-12, 18:12-23, 23:10-15, 24:20-25:1, 493:24-495:3. In fact, the witness has authored/given presentations involving this topic for years. <i>See e.g.</i> , Dep. Exhs. 42 (at pp. 4 & 16), and 43 (at p. 2). <i>See also</i> , Dep. at 480:15-25. Hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit/testimony also proves notice, knowledge, understanding, and/or state of mind relative to: transition to heroin and other relevant matters). The geographic scope objection is not applicable, as the witness's/McKesson's notice, knowledge, understanding and/or state of mind relative to these matters were national in scope (as were their related policies/procedures), all of which apply to Cabell/Huntington. The expert testimony and foundation objections are not supported as the witness had the background, experience and responsibility (as set-forth above) to present and/or testify on these matters, which is what he did with the aforementioned PowerPoints he authored and his testimony herein. In fact, the witness testified that he keeps "current" on this type of information. <i>See</i> Dep. at 38:4-7. Moreover, the witness's testimony is admissible pursuant to FRE 701.						
481	10	481	12	Calls for expert testimony; lacks foundation; stated opinion based on hearsay.				With the exception of the objection waiver argument, same as above.						